

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

EXPRESS ENERGY SERVICES OPERATING LP	CASE NO.
DEBTOR	09-38044 -H4-11
DAVID SHETTER, Movant	CHAPTER 11

versus

EXPRESS ENERGY SERVICES OPERATING LP,
Respondent

**MOTION OF DAVID SHETTER
FOR RELIEF FROM THE AUTOMATIC STAY**

THIS IS A MOTION FOR RELIEF FROM THE AUTOMATIC STAY. IF YOU OBJECT TO THE GRANTING OF RELIEF FROM THE AUTOMATIC STAY, YOU SHOULD CONTACT THE MOVANT IMMEDIATELY TO TRY TO REACH AN AGREEMENT. IF YOU CANNOT REACH AN AGREEMENT, YOU MUST FILE A WRITTEN RESPONSE AND SEND A COPY TO MOVANT NOT LATER THAN AUGUST 31, 2010 AND YOU MUST ATTEND THE HEARING.

THE COPY SENT TO THE MOVANT MUST BE DELIVERED BY HAND OR ELECTRONIC DELIVERY IF IT IS SENT LESS THAN FIVE BUSINESS DAYS PRIOR TO THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE HEARING MAY BE AN EVIDENTIARY HEARING AND THE COURT MAY GRANT OR DENY RELIEF FROM THE STAY BASED ON THE EVIDENCE PRESENTED AT THIS HEARING. IF A TIMELY OBJECTION IS FILED, THE COURT WILL CONDUCT A HEARING ON THIS MOTION ON SEPTEMBER 7, 2010 AT 9:00 A.M. IN COURTROOM 600, 6TH FLOOR, UNITED STATES COURT HOUSE, 515 RUSK, HOUSTON, TX 77002.

TO THE HONORABLE JUDGE OF THE BANKRUPTCY COURT:

This Motion is filed by David Shetter, Movant, requesting this Court to grant relief from the 11 U.S.C. Section 362 Automatic Stay provided for by the United States Bankruptcy Code, by terminating, annulling, modifying or conditioning such Stay to allow David Shetter, to proceed with his state law remedies against Respondent, Express Energy Services Operating LP, et al, (hereafter "Express Energy") in order to reduce his *in-personam* claim or cause of action to judgment but to limit any *in-rem* remedy to certain liability insurance policies and any non-bankruptcy assets. The Bankruptcy Court has jurisdiction over this proceeding pursuant to 28 U.S.C. Sec. 1471, 11 U.S.C. Sec. 105, and 11 U.S.C. Sec. 362. The Movant would show as reasons for the request for relief the

following:

1. The Respondent filed the original bankruptcy petition on or about 10/27/2009.
2. On December 22, 2008, Movant, David Shetter, was involved in a vehicular collision with an 18 wheeler being driven by Mr. Cleveland Burden. Mr. Burden was employed at the time and operating the truck on behalf of Respondent, Express Energy. Mr. Shetter sustained medical injuries and damage to his vehicle in an amount greater than \$20,000.00.
3. Mr. Shetter, by and through his state court counsel, Frenkel & Frenkel (Jason Boorstein), sent a demand letter to Respondent on September 9, 2009. In response, Mr. Shetter received a Notice and Suggestion of Bankruptcy on or about November 6, 2009.
4. Movant seeks termination of the automatic stay for the purpose of prosecuting to conclusion a state court lawsuit. Movant will limit any remedial action granted in the state court matter to any liability policies of insurance in existence unless further authority of this Court is obtained .
5. The automatic stay of 11 U.S.C. §362 should be lifted or modified based upon the following grounds:
 - a. The insurance policies are not property of the debtors' estate nor of any benefit to the estate.
 - b. Termination of the automatic stay as to the debtor will not negatively impact the administration of the bankruptcy case.
6. All parties in interest are hereby put on notice that, should Movant's Motion be granted, Movant further requests that the ten (10) day stay period imposed by Fed. R. Bankr. P. 4001(3) be waived and not applicable to Movant and the property described herein.

WHEREFORE, PREMISES CONSIDERED, Movant prays that the Court grant Movant

relief from the Automatic Stay by terminating, annulling, modifying, or conditioning the Stay with respect to Movant, and for such other and further relief as is just.

Respectfully Submitted

DON J. KNABESCHUH, ATTORNEY AT LAW

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Certificate of Service and Certificate of Compliance with BLR 4001

A copy of this motion was served on the persons shown on exhibit "1" at the addresses reflected on that exhibit on August 10, 2010 by prepaid United States first class mail or electronically to the Debtor's attorney, and other parties registered with ECF. Movant certifies that movant has complied with Bankruptcy Local Rule 4001.

/s/ Don J. Knabeschuh
Movant's Counsel